

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change the provisions for additional Medicaid reimbursement for nursing facilities related to the facility's performance as measured by ten indicators of quality care, as directed by 2008 Iowa Acts, Senate File 2425, section 33. This legislation requires the following changes:

- The amount used to calculate the accountability measure add-on is reduced to 80 percent of the sum of the direct care patient-day-weighted median and the non-direct care patient-day-weighted median (down from 100 percent).
- The additional payment for accountability measures will be withheld from the facility's weekly payment remittance and will instead be made through an add-on to each claim at the end of the state fiscal year (June 30).
- A facility's accountability measure add-on will be reduced by 25 percent for each deficiency cited resulting in actual harm to a resident at a scope and severity level of G pursuant to the federal certification guidelines. If the facility fails to cure any level G deficiency cited within the time required by the Department of Inspections and Appeals, the accountability measure add-on will be reduced to \$0.
- A facility will forfeit its accountability measure add-on if the facility receives a deficiency due to instances of actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines.

In the Centers for Medicare and Medicaid Services' nursing home survey and certification system, a level G deficiency is an isolated instance of actual harm to a resident that does not constitute "immediate jeopardy" to the resident's health or safety. A level H deficiency is a pattern of incidents of actual harm of the same severity. Higher levels include I, widespread instances of actual harm but no immediate jeopardy; J, an isolated instance of immediate jeopardy to a resident's health or safety; K, a pattern of such instances; and L, widespread instances of immediate jeopardy. Survey findings at level F (widespread instances of deficiencies that caused no actual harm but had a potential to cause more than minimal harm) and levels H through L indicate a substandard quality of care if the requirement that is not met falls under federal regulations on resident behavior, quality of life, or quality of care.

In addition, these amendments make a technical change to subrule 81.36(5) to update the name of the Iowa Board of Nursing Home Administrators.

These amendments were previously Adopted and Filed Without Notice and published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7016B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 7017B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Without Notice and published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations, since these are statutory provisions.

The Council on Human Services adopted these amendments October 8, 2008.

These amendments are intended to implement Iowa Code section 249A.4 and 2001 Iowa Acts, chapter 192, section 4, as amended by 2008 Iowa Acts, Senate File 2425, section 33.

These amendments shall become effective December 10, 2008, at which time the Adopted and Filed Without Notice rules are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [81.6(16)“g,” 81.36(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 7017B** and Adopted and Filed Without Notice as **ARC 7016B**, IAB 7/30/08.

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